

REMARKS

Claim 7 is pending in the above-identified application and is amended herein.

DOUBLE PATENTING

The Examiner provisionally rejected claim 7 for obviousness-type double patenting over claim 1 of U.S. Patent No. 6,658,589. Applicant respectfully disagrees but requests that the double patenting rejection be held in abeyance pending the resolution of the Examiners rejections under 35 U.S.C. §101 and 35 U.S.C. §102.

REJECTION UNDER 35 U.S.C. §101

The Examiner rejected claim 7 under 35 U.S.C. §101 with the assertion that the limitation “performing a backup operation” to “access data in said shared database” fails to produce a useful, concrete or tangible result. Applicant respectfully disagrees but submits that claim 7 is amended herein to change “using said selected backup node to access data in said shared database and also in said local redo log to perform said backup operation” to “backing up data in said shared database by accessing data in said shared database and also in said local redo log to perform said backup operation” to more positively recite the backing up operation and associated features.

Applicant respectfully submits that claim 7 as currently amended explicitly recites the step of backing up data which surely is a useful concrete or tangible result. Accordingly, Applicant respectfully submits that the rejection under 35 U.S.C. §101 should be withdrawn.

REJECTION UNDER 35 U.S.C. §102

The Examiner rejected claim 7 under 35 U.S.C. §102 over U.S. Patent No. 5,499,367 to Bamford et al. The Examiner erroneously indicated that Bamford discloses “a method of performing a backup operation of said shared database” (page 5, line 9). Applicant respectfully submits that contrary to the Examiner’s characterization, Bamford discloses particular details of a data recovery process, not a backup process, wherein log entries are kept in a particular order using a sequence number (abstract lines 11-13).

The Examiner also erroneously indicated that Bamford discloses “selecting one of a plurality of nodes to perform said backup operation” and provided an omnibus citation to column 12, line 10 – column 14, line 2 of Bamford wherein a client is chosen and submits database modification requests. Applicant respectfully submits that contrary to the Examiner’s characterization, Bamford’s description of a request controller which “determines what data areas need to be modified... then creates change requests which are passed to the change application manager...” describes a restoration function wherein data is modified in a restore operation. Bamford does not disclose or suggest a backup function as particularly claimed in the present application. Bamford does not disclose or suggest “obtaining information regarding a directory location of [a] local redo log...[and] backing up data in said shared database by accessing data in said shared database and also in said local redo log...” Similarly, the Examiner erroneously indicated that Bamford discloses “using said selected backup node to access data in said shared database and also in said local redo log to perform said backup operation.” Applicant respectfully submits that contrary to the Examiner’s characterization, nothing in Bamford teaches or suggests any steps of a backup operation, rather Bamford is entirely directed to specific steps of a restore operation. The steps in Bamford that are disclosed for performing a restore operation are, on their face, very different from Applicant’s steps in the particularly claimed backup of a shared database.

Since Bamford does not disclose each and every step as particularly claimed in claim 7, Applicant respectfully submits that the rejection of claim 7 under 35 U.S.C. §102 is improper and must be withdrawn.

CONCLUSION

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, allowance is requested.

No extension fee is believed due. However, if an extension of time is needed in this case, please treat this paper as such. Authorization is hereby given to charge deposit account 50-0369 in connection with any fees or extension of time or any other fee that may be necessary to permit entry of this response.

Respectfully submitted,

BROWN RUDNICK BERLACK ISRAELS LLP

Dated: August 31, 2006

By: Brian Michaelis
Brian L. Michaelis
Reg. No. 34,221
Customer No. 21710
Attorney for Applicant
One Financial Center
Boston, MA 02111
Tel: 617-856-8369
Fax: 617-856-8201